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Attorney Docket # 4066-29PUS

Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Carlo ANDRETTA et al.

Serial No.: 10/589,310

Filed: August 10, 2006

For: Method and Device for Producing Fragrance  
and/or Aroma Compositions

Examiner:

Group Art:

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on

December 13, 2006

(Date of Deposit)

Edward M. Weisz

Name of applicant, assignee or Registered Representative

Signature

December 13, 2006

Date of Signature

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**LETTER**

SIR:

Submitted herewith is an English translation of the International Preliminary Report on Patentability issued by the International Searching Authority. All the listed references have been previously submitted to the USPTO.

Respectfully submitted,  
COHEN PONTANI LIEBERMAN & PAVANE LLP

By

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December 13, 2006

From the INTERNATIONAL BUREAU

**PCT**

NOTIFICATION OF TRANSMITTAL  
OF COPIES OF TRANSLATION  
OF THE INTERNATIONAL PRELIMINARY REPORT  
ON PATENTABILITY  
(CHAPTER I OR CHAPTER II  
OF THE PATENT COOPERATION TREATY)  
(PCT Rules 44bis.3(c) and 72.2)

To:

SCHMAUDER & PARTNER AG  
Zwängiweg 7  
CH-8038 Zürich  
SUISSE

Schmauder & Partner AG  
Patent- und Markenanwälte VSP

13. Okt. 2006

Dankend erhalten  
Received with thanks

Date of mailing (day/month/year)  
12 October 2006 (12.10.2006)

Applicant's or agent's file reference  
P-7834 01

**IMPORTANT NOTIFICATION**

International application No.  
PCT/CH2005/000081

International filing date (day/month/year)  
14 February 2005 (14.02.2005)

Applicant

NOVABLEND AG et al

**1. Transmittal of the translation to the applicant.**

The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter I).



The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter II).

**2. Transmittal of the copy of the translation to the designated or elected Offices.**

The International Bureau notifies the applicant that copies of that translation have been transmitted to the following designated or elected Offices requiring such translation:

None

The following designated or elected Offices, having waived the requirement for such a transmittal at this time, will receive copies of that translation from the International Bureau only upon their request:

AE, AG, AL, AM, AP, AT, AU, AZ, BA, BB, BG, BR, BW, BY, BZ, CA, CH, CN, CO, CR, CU, CZ, DE, DK, DM, DZ, EA, EC, EE, EG, EP, ES, FI, GB, GD, GE, GH, GM, HR, HU, ID, IL, IN, IS, JP, KE, KG, KP, KR, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MK, MN, MW, MX, MZ, NA, NI, NO, NZ, OA, OM, PG, PH, PL, PT, RO, RU, SC, SD, SE, SG, SK, SL, SM, SY, TJ, TM, TN, TR, TT, TZ, UA, UG, US, UZ, VC, VN, YU, ZA, ZM, ZW

**3. Reminder regarding translation into (one of) the official language(s) of the elected Office(s).**

The applicant is reminded that, where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary report on patentability (Chapter II).

It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned within the applicable time limit (Rule 74.1). See Volume II of the PCT Applicant's Guide for further details.

The International Bureau of WIPO  
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1211 Geneva 20, Switzerland

Authorized officer

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# PATENT COOPERATION TREATY

# PCT

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference P-7834 01	<b>FOR FURTHER ACTION</b>	See item 4 below
International application No. PCT/CH2005/000081	International filing date ( <i>day/month/year</i> ) 14 February 2005 (14.02.2005)	Priority date ( <i>day/month/year</i> ) 17 February 2004 (17.02.2004)
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237		
Applicant NOVABLEND AG		

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).
2. This REPORT consists of a total of 7 sheets, including this cover sheet.  
  
In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

- |                                     |              |   |
|-------------------------------------|--------------|---|
| <input checked="" type="checkbox"/> | Box No. I    | Basis of the report   |
| <input checked="" type="checkbox"/> | Box No. II   | Priority  |
| <input type="checkbox"/>            | Box No. III  | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability  |
| <input type="checkbox"/>            | Box No. IV   | Lack of unity of invention  |
| <input checked="" type="checkbox"/> | Box No. V    | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/>            | Box No. VI   | Certain documents cited   |
| <input type="checkbox"/>            | Box No. VII  | Certain defects in the international application  |
| <input type="checkbox"/>            | Box No. VIII | Certain observations on the international application   |

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland	Date of issuance of this report 04 October 2006 (04.10.2006)
Facsimile No. +41 22 338 82 70	Authorized officer  <div style="text-align: right; font-weight: bold;">Yolaine Cussac</div> e-mail: pt11@wipo.int

# PATENT COOPERATION TREATY

TRANSLATION

From the  
INTERNATIONAL SEARCHING AUTHORITY

## PCT

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

To:

Date of mailing (day/month/year) **See form PCT/ISA/210**

Applicant's or agent's file reference  
**P-7834 01**

**FOR FURTHER ACTION**  
See paragraph 2 below

International application No.  
**PCT/CH2005/000081**

International filing date (day/month/year)  
**14.02.2005**

Priority date (day/month/year)  
**17.02.2004**

International Patent Classification (IPC) or both national classification and IPC  
**G01N33/00, G06F17/30**

Applicant  
**NOVABLEND AG**

**1. This opinion contains indications relating to the following items:**

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

**2. FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

**3. For further details, see notes to Form PCT/ISA/220.**

Name and mailing address of the ISA/EP

Authorized officer

Facsimile No.

Telephone No.

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/CH2005/000081

Box No. I

Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.  
☐ This opinion has been established on the basis of a translation from the original language into the following language \_\_\_\_\_, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
  - a. type of material  
☐ a sequence listing  
☐ table(s) related to the sequence listing
  - b. format of material  
☐ in written format  
☐ in computer readable form
  - c. time of filing/furnishing  
☐ contained in the international application as filed.  
☐ filed together with the international application in computer readable form.  
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/CH2005/000081

Box No. II

Priority

1. ☐ The following document has not yet been furnished:

☐ copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).

☐ translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date in the claimed priority date.

2. ☒ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

PCT/CH2005/000081

**Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

**1. Statement**

Novelty (N)	Claims	2-8	YES
	Claims	1, 9	NO
Inventive step (IS)	Claims		YES
	Claims	1-9	NO
Industrial applicability (IA)	Claims	1-9	YES
	Claims		NO

**2. Citations and explanations:**

**1. Reference is made to the following documents:**

D1: STAMPANONI KOEFERLI C ET AL.: "Application of classical and novel sensory techniques in product optimization", LEBENSMITTEL-WISSENSCHAFT U. -TECHNOLOGIE, vol. 31, no. 5, 1998, pages 407-417, XP2322102, ISSN: 0023-6438

D2: MOSKOWITZ H R: "Explorations of the functional relations between image and sensory attributes of soup." FOOD QUALITY AND PREFERENCE, vol. 13, no. 3, 2002, pages 139-151, XP2322103, ISSN: 0950-3293

**2. Completeness of the disclosure**

The description discloses the modification of a fragrance or aroma composition, in which case an attribute vector ( $A_i$ ) is modified and the operator (M) that connects this attribute vector ( $A_i$ ) to the formulation vector ( $R_i$ ) needs to be applied to the modified attribute vector ( $A_i'$ ) in such a manner that the modified formulation vector ( $R_i'$ ) is obtained.

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/CH2005/000081

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;  
citations and explanations supporting such statement

The subject matter of claims 1 and 9 goes beyond the described method since it also includes the possible specification of some target vector.

However, it is not evident from the description how the operator (step (b) of the claim) is to be determined in such a case.

Therefore, a person skilled in the art would not have sufficient information to carry out the invention. Therefore, the full scope of the subject matter of independent claims 1 and 9 has not been sufficiently disclosed and the requirements of PCT Article 5 have not been met.

3. Clarity

Claim 9 includes the feature of a means for calculating target formulation vectors but does not include any features for carrying out the corresponding arithmetic steps (i.e. steps (b) and (c) of claim 1).

As a result, it does not meet the requirement of PCT Article 6 in conjunction with PCT Rule 6.3(b) that each independent claim must include all the technical features essential to the definition of the invention.

4. Inventive step

4.1. D1 discloses a method for creating databases in which attribute vectors of aromas are presented on the basis of formulation vectors. In addition, D1 (page 413) proposes the use of these databases and



WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/CH2005/000081

Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;  
citations and explanations supporting such statement

the relationships which can be derived therefrom  
("predictive multivariate models") to optimize  
aromas using "reverse engineering".

4.2. Such a "reverse engineering" method is disclosed in  
D2 (table 5): in that case, a target attribute  
vector is prescribed and the associated formulation  
vector is determined using an operator.

4.3. The subject matter of claim 1 is thus obvious to a  
person skilled in the art and does not involve an  
inventive step within the meaning of PCT Article  
33(3).

4.4. Dependent claims 2-8 and device claim 9 do not  
contain any additional features which meet the PCT  
requirements for inventive step.